



# First Commercial Bank of Florida

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February 28, 2006

Jennifer J. Johnson, Secretary  
Board of Governors  
Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, N. W.  
Washington, D. C. 20551

Re: Comments on Proposed Guidance on Commercial Real Estate  
Docket # OP-1248

Dear Ms. Johnson,

We are pleased to offer our comments as follows with regard to the Proposed CRE Guidance. Our Board of Directors and management team have extensive experience in the CRE realm in Central Florida which we feel provides us substantive expertise from which to comment.

It is understandable that the regulatory agencies attempt to be proactive to some extent when trends such as concentrations are observed. However, in their haste to 'do something' the proposed cures, unintentionally, often end up being worse than the purported underlying problem. The law of unintended consequences is of great concern to us with respect to this proposed guidance and how it is actually implemented. Draconian measures could have very negative impacts on borrowers, banks and their communities.

There appear to be two principal areas outlined in the proposed guidance as contemplated responses. One is elevated risk management practices which, if reasonably and thoughtfully implemented, we do not oppose and feel is a reasonable position. We would point out, however, that existing regulatory policies would seem to already provide adequate measures to insure that banks do a good job of underwriting and administering their portfolios, and reporting to their Boards. We do not see the need to overlay yet more regulatory burden on banks when simply applying current practices should be adequate to address the issue. This would seem to be directed only at agencies and banks who may not have already addressed this issue proactively.

The second major area is potentially requiring a de facto 'capital surcharge' on banks deemed to have concentrations. This is of major concern to us and we vigorously oppose any such additional requirement. There are already rigorous capital guidelines in place known as risk-based capital (RBC) ratios with which all banks must comply. If a bank is deemed to have substantive asset quality or risk management problems, the regulators already have the power to require more capital. In fact, by regulatory fiat, the term 'Adequately Capitalized' has already been rendered virtually moot and irrelevant because some agencies require banks to be 'Well Capitalized' to garner approvals on any applications activities. To add yet another capital surcharge on many banks without major loan problems is unreasonable and an overreaction to this issue.

The proposed guidance amounts to a 'tops-down, paint-by-the-numbers' approach where one-size-fits-all. The appropriate response to any concerns is a 'bottoms-up, individual-bank' based response. While the proposed guidance is only for guidance at this point, this may end up having, for all intents and purposes, the 'force of law' without the very rigorous prior reviews that legislation requires. Historically, it has been our observation that when the agencies can't find major problems at banks but have hot-button issues they are focused on, they usually like to pile on more capital requirements as a proposed catch-all cure. We respectfully disagree that any capital surcharges beyond existing RBC guidelines should be imposed and, in fact, feel this guidance should explicitly state that no such additional requirements would be imposed.

It is my honor to serve on the Florida Bankers Association (FBA) Board of Directors and I attended the recent FBA Washington, D. C. trip where we met with leaders from the various regulatory agencies and this matter was *the* key concern of most of the Florida bank CEO's. The comments we received from the agencies were that, basically, if a bank is managing its risks well and its capital meets RBC guidelines then the focus would be on their continuing risk management practices rather than imposing new capital requirements. The bankers were skeptical based on past history, but were generally glad to hear this would be the focus rather than additional capital surcharges.

Among the many problems with a top-down approach is the fact that CRE is so broadly defined for Call Report purposes. In our bank, we stratify over 20 different categories of loan types and we have various parameters and sub-parameters for managing many of those. This is reported to our Board quarterly. This is why individual bank assessments are the proper way for regulators to address any concerns. Our Board feels there is very ample diversification of loan and property types within the broad CRE category and local market knowledge is a huge strength in knowing which types to do and which types to avoid. We certainly prefer many various types of CRE loans to many of the asset-based/UCC filing loans some banks do on assets such as receivables and inventory and specialized equipment, or unsecured lending, and some consumer and residential lending.

Some borrowers for land and acquisition and development loans have seven or eight figure net worths, are very liquid with little direct or contingent debt—we don't even know why they borrow money, but we're glad they do. Is such a loan, properly underwritten and structured, inherently more risky than other types not in the CRE category? Some of these borrowers would qualify for significant borrowings unsecured—would it be prudent for a bank to feel compelled to make such loans unsecured so as to avoid having to incur a capital surcharge by putting their loan in the CRE bucket? Is it prudent to have to send borrowers to other banks with less expertise to handle their CRE related loans? Worse yet, good borrowers may be driven to non-bank sources altogether.

Today's banks are much better managed and weathered the last downturn in real estate in the early 1990's very well with few real problems. We implore you to not inflict punitive measures on the communities and stockholders of many banks in Florida unnecessarily. Doing so may well have a chilling effect on the real estate market and create more problems than it allegedly would solve. Reviewing risk management practices at individual banks is appropriate; overlaying further capital requirements beyond RBC guidelines is not.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Alan Rowe", with a stylized, flowing script.

Alan Rowe  
President & CEO